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14 *InterDigital, Inc.; InterDigital Communications,
Inc.; InterDigital Technology Corporation; IPR
Licensing, Inc.; and InterDigital Patent
Holdings, Inc.*

1 ASUS sent the proposed joint statement to InterDigital on this discovery dispute on
2 Thursday, March 22 – when the deadline for motions to compel is Friday, March 23 – and
3 demanded a substantive response within one day. Yet just the day before, on March 21, ASUS
4 had made a proposal seeking InterDigital’s agreement for ASUS to submit joint statements on a
5 number of discovery issues after the March 23 deadline – by March 30 or April 7 depending on
6 the issue. InterDigital agreed the same day in writing. Because the surprise statement ASUS
7 served on this motion did not provide enough time for InterDigital to reasonably respond to the
8 substance, InterDigital proposed submitting a joint statement using the same procedure proposed
9 by ASUS: InterDigital offered to provide its half of the joint statement next week, and would not
10 assert objections based on the motion to compel deadline. Ex. A. In complete disregard of the
11 representations it had made to InterDigital on Wednesday about its intention to file joint
12 statements next week or the following week, ASUS abruptly refused InterDigital’s reasonable
13 proposal to proceed via joint statement (which followed the identical procedure that ASUS itself
14 had proposed and agreed to) and filed a unilateral statement instead, sandbagging InterDigital
15 with this eleventh-hour motion. Late Friday, ASUS claimed for the first time that it has now
16 decided it could not make later filings “without court order” – but in that case ASUS could and
17 should have sought an order extending the motion to compel deadline, which it had every
18 opportunity to do but inexplicably did not. Further, ASUS proceeded with its unilateral
19 statement in spite of the Court’s March 23 Order directing the parties to meet and confer about
20 the pending discovery disputes and to seek to narrow the disputes. Instead, ASUS is multiplying
21 those disputes with its last-minute filings.

22 ASUS’s unilateral statement is untimely and violates the Court’s standing order,
23 particularly in light of InterDigital’s offer to promptly provide its portion of the joint statement
24 on a reasonable schedule. Requests Nos. 21 and 22 were served in October 2016, well over a
25 year ago. There is no reason ASUS could not have provided a joint statement on these requests
26 weeks ago instead of withholding it until the day before the motion to compel deadline. During
27 the parties’ meet and confer on these issues over the course of the past year, InterDigital
28 explained to ASUS the extremely burdensome logistical issues associated with producing

1 materials that are subject to protective orders in other matters. In addition to confidential
2 information of parties in the other matters, there is also information that is confidential to third
3 parties in those matters, whose information was provided subject to a requirement that it only be
4 used for purposes of that action. For example, ASUS seeks reports of experts who have provided
5 opinions on behalf of InterDigital in other cases. Such reports often discuss the confidential
6 licensing information of dozens of third parties who permitted disclosure for purposes of use in
7 that case only. Obtaining permission to produce such documents in another case would require
8 many new rounds of third party confidentiality consent requests; even combing through old
9 reports and determining which parties to notice would be a very burdensome exercise,
10 particularly in light of the specter of being accused of violating another court's protective order.
11 Because of this burden, and the attenuated relevance in light of the fact that InterDigital's experts
12 in this case will provide reports with analysis actually directed to this case, InterDigital objected
13 to producing such documents. InterDigital explained such concerns again to ASUS during the
14 parties' February 14 teleconference, and no progress was made toward a resolution. Yet ASUS
15 still waited until the last day before motions to compel were due to assert this motion.

16 InterDigital has informed ASUS that, pursuant to the Court's March 23 Order, it will
17 meet and confer with ASUS on Monday March 26 regarding whether the dispute can be
18 narrowed. If no resolution is reached, InterDigital will promptly submit a substantive response.

19 **MEET AND CONFER CERTIFICATION:** As set forth above and in the attached exhibit,
20 InterDigital sought to meet and confer with ASUS about filing a joint statement and made
21 reasonable proposals to do so, but ASUS refused and filed a unilateral statement instead.

22 Dated: March 24, 2018

/s/ Maura L. Rees

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